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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,207	08/22/2003	Lothar Ackermann	WSP:217 US	9027
24041	7590	09/29/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			KUNEMUND, ROBERT M	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 09/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/646,207

Applicant(s)

ACKERMANN ET AL.

Examiner

Robert M. Kunemund

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,8,11,12,14,16,18-21 and 23-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 35 is/are allowed.
- 6) ☒ Claim(s) 1,3,5,8,11,12,14,16,18-21 and 23-34 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 25 to 27 and 33 to 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al (6,554,898).

The Lu et al reference teaches a method of seed pulling, note entire reference. A crucible is placed in a chamber and surrounded by a heater. A melt is created in the crucible. A non-metal seed is slowly lowered so as to contact the melt. The seed is pulled upward and creates a crystal, which is pulled upward from the melt, col. 5. The crystal is surrounded as it is pulled by a shielding means, note figure 1. The heater inductively heats the crucible. The shielding means controls the temperature gradient in the crystal and can supply heat, note col. 10. The sole difference between the instant claims and the prior art is the temperature of the crystal. However, in the absence of

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unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable temperature of the crystal in the Lu et al reference in order to cool the entire ingot uniformly lowering defects.

Claims 5, 8, 11, 12, 14, 16, and 18 to 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al (6,554,898).

The Lu et al reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the gradient size and process conditions. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable gradient and process parameters like pressure and atmosphere in the Lu et al reference in order to lower impurities in the crystal and create a uniform growth front.

Claims 28 to 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al (6,554,898).

The Lu et al reference is relied on for the same reasons as stated, supra, and differs from the instant claims in materials and adjustability. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable materials of construction and adjustable sizes in the Lu et al reference in order to have the apparatus withstand process conditions and to insure that the all of the ingot is shield as is the crucible.

Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Applicants Arguments*

Applicant's arguments filed July 15, 2005 have been fully considered but they are not persuasive.

Applicants argument concerning the heating in the Lu et al reference is noted. However, there is no evidence of record to show the heating of the instant claims is not within the skill of the art and creates solely any unexpected results. The prior art does teach the use of different heaters in czochralski methods and apparatus. Thus, the heater is within the skill of the art.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Kunemund whose telephone number is 571-272-1464. The examiner can normally be reached on 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMK



ROBERT KUNEMUND  
PRIMARY EXAMINER